IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Writ Petition No.2683 of 2006

Shri Jagdish Basgouda Patil — Petitioner

Vs.

Chairman Sangli Zilha Vyapari
Nagari Sahakari Patsanstha Ltd.
and anr. — Respondents

Mr.Kuldeep S. Patil for petitioner.

Mr.S.S.Patwardhan for resp.no.1.

Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 13, 2007.

P.C.

. Heard Mr.Kuldeep Patil, the learned counsel for the petitioner who is an accused in SCC No.175/2004 for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. During the trial of the complaint the accused submitted an application at Exhibit 42 praying for directions to produce certain record relating to sale of turmeric pevs and the said sale was carried out from time to

time and the proceeds were with the Co-operative Credit Society. The trial Court rejected the said application at Exhibit 42 and, therefore, Criminal Revision Application No.205 of 2005 came to be filed before the Sessions Court at Sangli and the same was dismissed by the learned Sessions Judge on 30/10/2006. Hence this petition under Article 227 of the Constitution.

. The complainant in its complaint very specifically stated that it had advanced a loan of Rs.3 lakhs on 26/7/2002 to the accused and on 5/12/2003 he had issued a cheque for Rs.3,82,050/-. This cheque was deposited by the complainant and it was dishonoured on 6/12/2003. In the evidence of the complainant's witness it was clear that the loan was for the purchase of a plot and the borrower's house was hypothecated against the said loan. There was nothing on record to point out even prima facie that the pevs of turmeric were hypothecated for the said loan of Rs.3 lakhs. If the pevs of turmeric were hypothecated by the accused with the Co-operative Credit Society for some other loan transaction, it could not be said that the record called for was relevant in deciding SCC No.175 of 2004. Therefore,

the concurrent view taken by both the Courts below cannot be termed as perverse or grossly erroneous so as to cause interference under Article 227 of the Constitution.

. Hence the petition is rejected summarily.

(B.H.MARL